

BACKGROUND

6. Plaintiff's Complaint alleges that YRC was required to transport by motor carrier, for compensation, plaintiff's property from Houston, Texas to Cincinnati, Ohio. (*See* Complaint ¶ 3.)

7. Plaintiff's Complaint seeks compensatory damages, not including interest and costs, in the amount of \$51,976.00, plus interest, including prejudgment interest, and attorney's fees for damage allegedly caused to its property transported by YRC from Houston, Texas to Cincinnati, Ohio. (*See* Complaint ¶¶ 6, 9, 13, 16 and Prayer for Relief.)

8. Plaintiff's Complaint involves one (1) receipt or bill of lading and based on the damages sought in plaintiff's Complaint, the matter in controversy for each receipt or bill of lading exceeds \$10,000, exclusive of interest and costs. (*See* Complaint.)

BASIS FOR FEDERAL COURT ORIGINAL JURISDICTION

9. Transportation of plaintiff's property by motor carrier, for compensation, from Houston, Texas to Cincinnati, Ohio constituted transportation in interstate commerce under 49 U.S.C. § 13102(14) & (23) and § 13501(1)(A).

10. Because plaintiff's claims relate to transportation by motor carrier, for compensation, in interstate commerce, plaintiff's claims are governed exclusively by the Carmack Amendment to the Interstate Commerce Act. *See* 49 U.S.C. § 14706.

11. Because this action is governed by 49 U.S.C. § 14706, and the matter in controversy for each receipt or bill of lading exceeds \$10,000.00, exclusive of interest and costs, this Court has original jurisdiction over the claims alleged in plaintiff's Complaint under 28 U.S.C. § 1337(a).

PROPRIETY OF REMOVAL

12. This Notice of Removal is timely because it is filed within thirty (30) days of YRC's receipt of the Complaint, in accordance with 28 U.S.C. § 1446(b).

13. This Court has original jurisdiction of this matter under 28 U.S.C. §1337(a).

14. This matter is properly removable under 28 U.S.C. § 1441.

15. Removal of this matter is not barred by 28 U.S.C. § 1445.

16. Pursuant to 28 U.S.C. § 1446(a), YRC has attached hereto as Exhibit A copies of all process, pleadings, and orders served upon YRC in this matter.

17. Pursuant to 28 U.S.C. § 1446(a) and (d), YRC will file a copy of this Notice of Removal with the Court of Common Pleas of Hamilton County, Ohio; will provide prompt notice to all adverse parties; and will file proof of service of all notices and filings with the Clerk of the United States District Court for the Southern District of Ohio, Western Division.

REQUEST FOR HEARING AND JURISDICTIONAL DISCOVERY

18. If plaintiff contests this removal, YRC requests:

A. a hearing regarding this Court's jurisdiction over, and the propriety of removal of, this matter;

B. the opportunity to present evidence demonstrating the existence of federal jurisdiction and the propriety of removal; and

C. leave to conduct limited discovery related to those issues.

WHEREFORE, YRC removes the above-captioned action from the Court of Common Pleas of Hamilton County, Ohio, to the United States District Court for the Southern District of Ohio, Western Division.

Of COUNSEL:

**BENESCH, FRIEDLANDER, COPLAN
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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served via United States mail, postage prepaid, this 20th day of September, 2010, upon:

John C. Scott
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/s/ Thomas Kern
Thomas Kern